

EXHIBIT 262

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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

THE STATE OF TEXAS, et al.,)
Plaintiff,)

VS.) Civil Action No.
) 4:20-CV-00957-SDJ
GOOGLE LLC,)
Defendant.)

ORAL AND VIDEOTAPED DEPOSITION OF
THE CORPORATE REPRESENTATIVE OF THE STATE OF TEXAS,
JUSTIN GORDON

APRIL 17, 2024

ORAL AND VIDEOTAPED DEPOSITION OF THE CORPORATE
REPRESENTATIVE OF THE STATE OF TEXAS, JUSTIN GORDON,
produced as a witness at the instance of the Defendant,
and duly sworn, was taken in the above-styled and
numbered cause on April 17, 2024, from 9:12 a.m. to
8:34 p.m., before Donna Wright, CSR in and for the
State of Texas, reported by machine shorthand, at the
law offices of NORTON ROSE FULBRIGHT US LLP,
98 San Jacinto Boulevard, Suite 1100, Austin, Texas,
pursuant to the Federal Rules of Civil Procedure and
the provisions stated on the record or attached hereto.

Job No. CS6654495

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Page 2

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Page 25

1 identified in Interrogatory 5. I would refer you to
2 that interrogatory as opposed to limiting it to the
3 description that you provided.

4 Q. Let me go ahead and mark as Exhibit 4 the
5 Sixth Amended Interrogatory Responses.

6 (Exhibit 4 marked)

7 Q. And I know you have this in your binder, but
8 that way, just for our record, it's probably easier to
9 have a separate -- a separate --

10 A. Yes, sir. No problem.

11 Q. So do you agree Exhibit -- Exhibit --
12 Exhibit 4 is a copy of the Sixth Amended Interrogatory
13 Responses?

14 A. It looks like it. I'm just checking to make
15 sure that they are all there.

16 Yes.

17 Q. And if we look at the first bullet point under
18 Interrogatory No. 5 on Page 14, are you there?

19 A. Yes, sir.

20 Q. Okay. And that says -- the first sentence of
21 that bullet point says, "Google's unlawful conduct has
22 inflicted harm to businesses and individuals in the
23 plaintiff states, to the respective economies of the
24 plaintiff states, and to the general welfare of the
25 plaintiff states," right?

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Page 26

1 A. Yes, that's the first sentence.

2 Q. And how widespread is this impact in the State
3 of Texas?

4 A. What do you mean by "widespread"?

5 Q. How widespread is this -- the harm that's
6 alleged here?

7 A. Well, it affects the entire state, so I would
8 say statewide.

9 Q. Has that been measured in any way?

10 A. I'm not aware of a specific measurement.

11 Q. Did you do anything before today to look into
12 whether the harm has been measured in any way?

13 A. I confirmed that a lot of the information
14 pertaining to calculations is pending subject to expert
15 testimony that is upcoming. But beyond that, I did not
16 personally look into measuring those amounts.

17 Q. Does Texas contend that publishers and
18 advertisers make up a substantial segment of the Texas
19 population?

20 MR. COLLIER: Objection, form.

21 THE WITNESS: What would you define as
22 "substantial"?

23 Q. (BY MR. AYCOCK) Does Texas -- does Texas
24 believe that they make up a substantial portion of the
25 population? Is that Texas' position or not?

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Page 39

1 Q. It says, "Reference Sheet of Claims"?

2 A. Yes.

3 Q. Okay. And what page are you on?

4 A. The pages aren't numbered, but it would be --
5 I'll tell you in a second.

6 Right now I'm on Page 4.

7 Q. Okay. So if you can walk me through your
8 understanding, then, of the consumers in the State of
9 Texas who are alleged to have been harmed by Google's
10 conduct.

11 MR. COLLIER: Objection, form.

12 THE WITNESS: I have left the tab, and
13 now I'm reviewing the interrogatory responses.

14 So, for example, on Page 15 of our
15 interrogatory response to No. 5, we have referenced
16 that, "Google conduct has caused and continues to cause
17 harm to small and large businesses in the plaintiff
18 states with follow-on effects to consumers, i.e.,
19 plaintiff state citizens. The impacts to the plaintiff
20 states by the following conduct with Google are broad
21 and manifest."

22 Then we describe the harm arising from
23 unlawful tying.

24 THE REPORTER: Unlawful?

25 THE WITNESS: Tying, T-Y-I-N-G.

1 The harm from dynamic allocation, the
2 harm from enhanced dynamic allocation, the harm from
3 dynamic revenue sharing, the harm from reserved price
4 optimization, the harm from Bernanke and its multiple
5 forms, the harm from header bidding submission, the
6 harm from uniform pricing rules.

7 There we conclude that, "Each form of
8 anticompetitive and deceptive conduct discussed above
9 caused harm to businesses in each plaintiff state,
10 small, medium, and large, that rely on display
11 advertising. Google's conduct has resulted in higher
12 prices and lower quality products for participants in
13 the ad tech markets and foreclose competition that
14 would bring about non-Google product alternatives.

15 "In turn, the plaintiff states' economies
16 in general have not realized the benefits of
17 competition and instead suffered from stifled
18 innovation and investment in display advertising
19 space."

20 And this is where we get to the portion
21 about consumers.

22 "Furthermore, and as discussed above,
23 Google's unlawful conduct also extracts harm from
24 consumers, i.e., citizens, in the plaintiff states and
25 negatively affected the general welfare. The use of

1 the Internet in the United States and in the plaintiff
2 states is pervasive and almost universally adopted.
3 That means that anyone who uses the Internet, i.e.,
4 consumers in the plaintiff states, interacts with
5 display advertising.

6 "Consumers benefit from competent
7 decision in the form of choice and innovation. The
8 cost savings realized by advertisers and publishers
9 could be passed on to consumers, such as lowering
10 subscription fees and removing pay walls.

11 "At the same time, small and large
12 businesses would need to spend less on advertising to
13 generate business. Those savings would benefit
14 consumers because businesses could, in turn, lower the
15 price of their goods and services. Increased commerce
16 drives economic growth in the plaintiff states and
17 improves the general welfare. Google's anticompetitive
18 and deceptive conduct inhibits that progress, growth,
19 and welfare promotion."

20 Q. I'm going to hand you a document I have marked
21 as Exhibit 5.

22 (Exhibit 5 marked)

23 Q. Do you recognize this as a document filed in
24 this case titled "Plaintiff States' Advisory Regarding
25 Relief Sought"?

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Page 283

1 before the completion of the deposition and that the
2 signature is to be before any notary public and
3 returned within 30 days from date of receipt of the
4 transcript. If returned, the attached Changes and
5 Signature Page contains any changes and the reasons
6 therefore:

7 _____ was not requested by the deponent or a
8 party before the completion of the deposition.

9 I further certify that I am neither counsel
10 for, related to, nor employed by any of the parties or
11 attorneys in the action in which this proceeding was
12 taken, and further that I am not financially or
13 otherwise interested in the outcome of the action.

14 Certified to by me on this, the 18th day of
15 April, 2024.

16
17
18 

19 DONNA WRIGHT, Texas CSR 1971

Expiration Date: 11/30/24

20 VERITEXT LEGAL SOLUTIONS

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